

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

EZSHOOT LLC,

Plaintiff,

vs.

THE INDIVIDUALS, PARTNERSHIPS AND
UNINCORPORATED ASSOCIATIONS
IDENTIFIED ON SCHEDULE "A,"

Defendants.

_____/

DECLARATION OF EZSHOOT LLC IN SUPPORT OF PLAINTIFF'S *EX PARTE*
APPLICATION FOR ENTRY OF TEMPORARY RESTRAINING ORDER,
PRELIMINARY INJUNCTION, AND ORDER RESTRAINING TRANSFER OF ASSETS

I, Wan Xia, declare and state as follows:

1. I am over 18 years of age and have personal knowledge of the facts set forth herein. I make this declaration in support of Plaintiff's *Ex Parte* Application for Entry of Temporary Restraining Order, Preliminary Injunction, and Order Restraining Transfer of Assets (the "Application for TRO") against Defendants, the Individuals, Partnerships and Unincorporated Associations identified on Schedule "A" hereto ("Defendants"). If called upon to do so, I could and would testify competently to the matters set forth herein.

2. I am employed by EZSHOOT LLC (“EZSHOOT”), as sales manager of EZSHOOT LLC. EZSHOOT LLC is a Delaware limited liability company with its principal place of business in the United States located at 16192 Coastal Highway, Lewes, DE 19958.

3. In my capacity as EZSHOOT’s sales manager. I am responsible, in part, for EZSHOOT’s trademark and anti-counterfeiting efforts in the United States. As a result, I am fully familiar with most aspects of the manufacture, sale and distribution of genuine EZSHOOT’s products, and I have been trained to identify the distinction between genuine EZSHOOT’s merchandise and counterfeit copies of the same.

EZSHOOT’s Trademark Rights

4. EZSHOOT LLC is the owner of all rights in and to the following trademarks, which are valid and registered on the Principal Register of the United States Patent and Trademark Office (the “Sexy Dance Mark”):

Trademark	Registration Number	Registration Date	Class/Goods
Sexy Dance	4,781,913	July 18, 2015	IC 025- Coats, Dresses, T-shirt, Trousers

The Sexy Dance Mark is used in connection with the manufacture and distribution of high quality goods in the categories identified above. True and correct copies of the Federal Registrations for the Sexy Dance Mark listed above is attached to the Complaint as Composite Exhibit “1.”

5. EZSHOOT is engaged in the manufacture, promotion, distribution, and sale in interstate commerce, including within this district, of high quality products under the Sexy Dance Mark.

6. Genuine Sexy Dance products are sold throughout United States via the

Internet on Walmart. EZSHOOT has spent tens of thousands of dollars to extensively advertise, promote its goods and associated trademarks as well as production. In the last few years, EZSHOOT's sales of high quality goods. In addition, EZSHOOT has many positive customer feedbacks regarding its products.

7. As a result of the foregoing, the Sexy Dance Mark has acquired fame in the consumer market for a wide variety of clothes. The Sexy Dance Mark has come to symbolize the enormous goodwill of EZSHOOT's Sexy Dance Products throughout the United States. No other manufacture lawfully uses the Sexy Dance Mark or any substantially similar mark for similar types of goods. The Sexy Dance Mark has never been abandoned. EZSHOOT actively policies and enforces its trademark rights.

8. The Sexy Dance Mark is vital to EZSHOOT's business, as the trademark represents a significant value to EZSHOOT's overall business and associated image. EZSHOOT suffers irreparable harm to its goodwill, as well as a direct monetary loss, any time any third parties, including Defendants, sell counterfeit and infringing goods bearing and/or using identical or substantially similar trademark.

INVESTIGATION OF DEFENDANTS' COUNTERFEITING ACTIVITIES

9. EZSHOOT has learned Defendants are promoting, advertising, offering for sale, and/or selling various products under the Sexy Dance Mark without EZSHOOT's authorization via at least the Internet based e-commerce store, Walmart.com operating under their seller identification names identified on Schedule "A". Defendants do not have, nor have they ever had, the right or authority to use the Sexy Dance Mark. Further, the Sexy Dance Mark has never been assigned or licensed to be used in connection with any of the Seller IDs.

10. I have investigated the suspected sales of counterfeit Sexy Dance products by Defendants and to obtain the available payment account data for receipt of funds paid to Defendants for the sale of counterfeit Sexy Dance branded products.

11. Prior to filing this action, I or someone under my direction also collectively accessed the Internet based e-commerce store operating under Defendant's Seller IDs, and placed orders for the purchase of a product bearing and/or using, or suspected of bearing, counterfeits of, at least, the Sexy Dance Mark at issue in this action from each Defendant. At the conclusion of the process, I organized detailed web page captures and photographs of the Sexy Dance branded goods ordered. True and correct copies of screenshot printouts showing the active e-commerce stores operating under the Seller Storefronts reviewed are attached as Exhibit 2.

12. I or someone under my direction further conducted a due diligence and review of the Sexy Dance branded goods identified and captured by reviewing the photo album, e-commerce store operating under the Seller IDs and the detailed web page captures thereof, together with photographs of received goods, and concluded the products be non-genuine, unauthorized Sexy Dance branded products. I or someone under my direction reached this conclusion through visual inspection of the products and packaging, the pricing of the Sexy Dance branded products listed, which are below the prices of similar genuine Sexy Dance products. Moreover, I personally know EZSHOOT does not conduct business with Defendants or their Seller IDs nor do they have the right or authority to use the Sexy Dance Mark for any purpose.

13. In view of the foregoing, I can confirm the Sexy Dance branded products I ordered via Walmart.com operating under the Seller IDs are non-genuine Sexy Dance

products. I can also confirm that the products Defendants are offering for sale and promoting under the Sexy Dance Mark via the Internet based e-commerce store operating under the Seller IDs are non-genuine, unauthorized Sexy Dance products.

14. EZSHOOT has always been complying with intellectual property laws and rights. EZSHOOT is forced to bring this lawsuit against enterprises and individuals who engage in the above-mentioned infringing activities without permission to protect our legal rights and interests.

HARM CAUSED TO EZSHOOT BY DEFENDANTS' ACTIVITIES

15. Genuine Sexy Dance products are widely legitimately advertised, promoted, offered for sale and discussed by EZSHOOT via the internet.

16. Visibility on the Internet, particular via Walmart.com, has become increasingly important to EZSHOOT's overall marketing and consumer education efforts. Thus, EZSHOOT

Expend significant monetary resources on Internet marketing its products.

17. By benefiting from similar visibility based upon the illegal use of the Sexy Dance Mark online, Defendants are obliterating the otherwise open and available marketplace space in which EZSHOOT has the right to fairly market its good and associated message. Specifically, Defendants use Sexy Dance Mark within the content of their e-commerce stores, photo albums, and website listings to attract the automated eye of various search engines crawling the Internet looking for website relevant to consumer searches for Sexy Dance branded goods and information. Such illegal use results in unfair competition with EZSHOOT when competing for visibility on Walmart.com, including search engine results space.

18. Defendants were also able to obtain orders at lower price reducing EZSHOOT's market share by nearly half but also made EZSHOOT's company brand receive many one-star negative reviews due to imitation of the Defendants.

19. As a result of the availability of the non-genuine Sexy Dance branded products being offered for sale by Defendants, EZSHOOT has suffered irreparable harm to its reputation as well as loss of market share by half. In addition, EZSHOOT is highly likely to continue to experience irreparable damage to its reputation among consumers unless the infringing and counterfeiting activity alleged in the complaint is stopped.

Executed on this 21 day of June 2023

Wan Xia

Name: Wan Xia

Position: Sales Manager

For EZSHOOT LLC